

### **REMARKS**

Claim 2 has been canceled without prejudice. Accordingly, Claims 1 and 3-64 are pending in the current application, all of which were rejected in the October 13, 2004 Office action. Claims 1-33 and 35-64 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over U.S. Patent No. 6,655,442. Claim 1 also stands rejected under 35 U.S.C. § 102(b) as being anticipated by La Borde (U.S. Patent No. 3,992,839). Claims 1 and 31 stand further rejected under § 102(b) as being anticipated by Rekret (U.S. Patent No. 5,718,276). Claims 2-30, 32, 33, and 35-64 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over La Borde. Finally, claim 34 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over La Borde in view of Zarwell (U.S. Patent No. 5,315,798) and as being unpatentable over Rekret in view of Stansberry (U.S. Patent No. 3,178,776). The applicants respectfully traverse these rejections and request reconsideration.

### **Non-Statutory Double Patenting**

The obviousness-type double patenting rejections of claims 1-33 and 35-64 are obviated by the terminal disclaimer filed today. The terminal disclaimer disclaims any term beyond the enforceable lifetime of U.S. Patent No. 6,655,442. Accordingly, the applicants respectfully request that the double patenting rejections be withdrawn.

### **Rejections under 35 U.S.C. § 102**

Independent claim 1 recites a door panel apparatus, comprising a first panel member made of a first material, a first interlocking member on the first panel member, a second panel member made of a second material, and a second interlocking member on the second panel member. The first interlocking member and the second interlocking member interlock with each other to restrain the first panel member and the second panel member in a coplanar relationship, thereby creating a first door panel.

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by La Borde. La Borde does not teach or suggest the use of its paneling system for doors. In contrast, La Borde teaches “snap-together paneling for use in making walls and corners in the building industry” (La Borde’s Abstract). The snap-on panel of La Borde is only discussed for use with walls that do not move and generally do not get impacted. In particular, the wall structure disclosed by La Borde does not have the weight, strength, or toughness characteristics to function as a door panel. Further, La Borde discloses a system in which “[b]oth panels are identical” (col. 1, line 58).

In contrast, the extruded door panel members as claimed here address the weaknesses associated with prior art doors that are damaged by impact. Specifically, claim 1 recites, *inter alia*, a door panel with a first panel member made of a first material and a second panel made of a second material. The panel are interlocked in a substantially coplanar relationship to create a door panel. By having separate panel members within an individual door panel (a modular system), each separate panel member may be easily replacement if damaged without requiring replacement of an entire door panel. Further, panel members made of separate materials allow for customization of the door panel by positioning a panel member made of a tougher, more impact resistant material in a position more likely to be impacted. La Borde’s wall paneling system does not teach nor suggest the modular, customizable door panel system claimed here, leaving claim 1 in a condition for allowance.

Claim 1 also stands rejected under 35 U.S.C. § 102(b) as being anticipated by Rekret. While Rekret pertains to panels for use with a door, Rekret is specifically directed to a monolithic design without modularity. In particular, as noted in the “Description of Related Art” section of the current application, Rekret has certain inherent weaknesses that the current invention overcomes (see pages 3-4). Specifically, Rekret discloses a door panel

system with a monolithic design, such that “damage to any given portion of such a panel (particularly damage that would negatively impact the operability of the door) requires replacement of the entire panel. There is currently not a practical way to be able to replace only a damaged section of an individual panel, as opposed to the entire panel itself” (“Description of Related Art,” page 4).

Further, this type of monolithic design prevents customizing a panel to provide variability of material properties within a given panel (e.g., placing a more impact resistant panel in the position most likely to be impacted). Finally, Rekret discloses a panel system in which the panels are interconnected via a “one way hinge connection” (column 1, lines 58-59) that allows flexing or pivoting between adjacent panels. This type of connection requires each individual panel to have its own means for guiding itself along the track (Rekret’s roller 25). Because each guide member contributes drag to the door’s movement, a door with numerous panels is more difficult to open and close than a door with fewer panels.

The door panel of claim 1 addresses the weaknesses of the Rekret apparatus by reciting a first and a second panel member that connect to create a first door panel, wherein the panel members may be made of different materials. The recited elements make it easy to provide a variability of material properties within a given panel, and they also make it possible to replace only a section of an individual panel that may be damaged, instead of requiring the replacement of the entire panel. Further, the panels of claim 1 interlock (via their respective interlocking members 46 and 48) in such a manner that restrains the first and second panel members in a coplanar relationship to create a first door panel. Because the panels claimed here are not connected via a hinge and the panels do not pivot or flex relative to each other, there is no need for each panel to have its own means for guiding itself, leaving the door lighter and easier to move. Accordingly, for at least these reasons, claim 1 is not

anticipated by Rekret and claim 1, and all claims dependent thereon, are in a condition for allowance.

Finally, claim 31 also stands rejected as anticipated by Rekret. Claim 31 depends from claim 1 and is allowable for at least the reasons detailed above.

**Rejections under 35 U.S.C. § 103(a)**

Because claims 2-30, 32, 33, and 35-64 all stand rejected under 35 U.S.C. § 103(a) as being unpatentable over La Borde, they will first be treated as group. As mentioned above, claim 2 has been canceled without prejudice. Later in this Section, the specific recitations of each of the independent claims in this group will be highlighted.

In support of the obviousness rejections based on La Borde, the examiner asserts in the Office action that it would have been obvious to one of ordinary skill in the art to select a known material based upon its suitability for use as a door panel. However, the deficiencies of La Borde, as discussed above in connection with the 102(b) rejection, apply with equal weight to the obviousness rejections asserted here. One of ordinary skill in the art would not think to apply a panel structure for use in making walls and corners in the building industry (La Borde) to a door because of the difference in function between the two products. As noted above, the panel structure of La Borde is entirely inappropriate for use in a door, and it does nothing to overcome the weaknesses of existing door technology. Further, there is no suggestion or motivation to apply the panel structure of La Borde to a door. As such, it does not matter what material the door panels are constructed of, and the applicants respectfully submit that the examiner has failed to present a *prima facie* case of obviousness of claims 3-30, 32, 33, and 35-64 based upon the prior art, as required by 35 U.S.C. § 103.

As noted above, La Borde also discloses a system in which “[b]oth panels are identical” (col. 1, line 58, emphasis added), which actually teaches away from the claims at

issue here, which recite different materials and material properties for the panel members. Even assuming, *arguendo*, that it would have been obvious from La Borde to select materials suitable for use in the door panel members claimed here, before one even considers selecting a known material based on its suitability for use as a door panel member, one would have had to have made the invention claimed here. Put differently, one would first have to realize that a door panel can be broken into modular components with different material properties and then build a modular, “programmed” door out of these components - something that La Borde does not even hint at. It seems as if the material suitability argument places the cart before the horse and leaves out the inventive step of seeing a door panel in the novel manner described in the current application. Again, the applicants respectfully submit that the examiner has failed to present a *prima facie* case of obviousness of claims 3-30, 32, 33, and 35-64 based upon the prior art, as required by 35 U.S.C. § 103. Accordingly, claims 3-30, 32, 33, and 35-64 are in a condition for allowance.

**Claims 3-30 are Allowable:**

Claims 3-30, either directly or indirectly, depend from claim 1, which has been discussed in detail above. As may be inferred from the rejection, claims 2-30 recite, *inter alia*, materials and material properties to construct the first and second panel members. The deficiencies of La Borde, as detailed above, apply to the § 103(a) rejections of dependent claims 2-30, leaving them in a condition for allowance.

**Claims 32, 33, and 35-49 are Allowable:**

Independent claim 32 recites, *inter alia*, a method of producing a door panel like the one discussed above, the method including determining a desired characteristic of the door panel, and producing a first and a second plurality of modular panel members that are interchangeable with each other but are also distinguishable from each other by a material

property. Based on the desired characteristic, a first panel member is selected from the first plurality of panel members and a second panel member is selected from the second plurality of panel members. Finally, the first panel member is connected to the second panel member.

Claims 33 and 35-49 depend from independent claim 32. Like claims 2-30 discussed above, claims 32, 33, and 35-49 relate generally to the ability to vary a desired material property within a given door panel. The arguments asserted in the introductory paragraphs of this Section apply with equal weight to claims 32, 33, and 35-49, leaving them in condition for allowance.

**Claims 50-64 are Allowable:**

Independent claim 50 recites a door panel apparatus comprising a first panel member made of a first material, and a second panel member made of a second material, wherein the first material is distinguishable from the second material by a material property of the first and the second material. Finally, a connector is interposed between the first panel member and the second panel member to help restrain the panel members in a substantially coplanar relationship, thus creating a first door panel or a section thereof. Claims 51-64 depend from independent claim 50.

For the reasons noted above, the applicants respectfully submit that the examiner has failed to present a *prima facie* case of obviousness of claims 50-64 based upon the prior art, as required by 35 U.S.C. § 103. Accordingly, claims 50-64 are in a condition for immediate allowance.

**Claim 34 is Allowable:**

Claim 34 depends from claim 32 (discussed above) and adds that the first panel member of claim 32 includes a screen. Claim 34 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over La Borde in view of Zarwell. The Office action suggests that La

Borde does not set forth the panel members as having a screen, but points to Zarwell as disclosing a panel member comprising a screen 24, asserting that it would have been obvious to one of ordinary skill in the art to incorporate this teaching into the panel of La Borde.

The applicants do not dispute that Zarwell discloses a screen member 24 that is secured inside of a frame 14, but point to Zarwell's disclosure, which states that, "although the vent unit finds a special adaptation in conjunction with glass block panels, it can be advantageously employed in any suitable wall structure such as brick, cement block or wood" (column 4, lines 18-21). Like La Borde, Zarwell makes no hint at using the apparatus described therein as part of a door, as is disclosed and claimed here. The deficiencies of La Borde as it relates to the invention claimed here have been discussed above; those deficiencies apply with equal force to claim 34. The addition of Zarwell does nothing to cure the deficiencies of La Borde.

Further, there is absolutely no suggestion or motivation that would lead one to apply the screen of Zarwell into the wall panel of La Borde. La Borde suggests that its panels should be made from a plastic material (column 3, lines 29-30), which implies that La Borde's walls are intended for use as interior walls (plastic is not typically well-suited for use in exterior walls). There is little or no need to have a screen in an interior wall panel, which leads to the conclusion that there would be no motivation for one of ordinary skill in the art to apply the screen of Zarwell to the paneled wall of La Borde. Therefore, the applicants respectfully submit that the examiner has failed to present a *prima facie* case of obviousness of claim 34 based upon the prior art, as required by 35 U.S.C. § 103.

Claim 34 also stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Rekret in view of Stansberry. The applicants note confusion over this rejection as the Office action states that "[w]hile Rekret does not set forth the panel members as having a screen,

Stansberry discloses a panel member comprising a screen 34, wherein, to incorporate this teaching into the panel member of La Borde for the purpose of ventilation would have been obvious to one of ordinary skill in the art.” (Page 4, paragraph 7). The applicants will address this rejection under the assumption that it is based on the combination of Rekret and Stansberry. As noted above, Rekret is specifically referenced in the “Description of Related Art” section of the current application as having certain weaknesses that the current invention overcomes (see pages 3-4 of the current application). Rekret discloses a door panel system with a monolithic design, such that “damage to any given portion of such a panel (particularly damage that would negatively impact the operability of the door) requires replacement of the entire panel. There is currently not a practical way to be able to replace only a damaged section of an individual panel, as opposed to the entire panel itself” (“Description of Related Art,” page 4). Further, this type of monolithic design prevents customizing a panel to provide variability of material properties within a given panel (e.g., placing a more impact resistant panel in the position most likely to be impacted).

The door panel of claim 34 (and claim 33, from which 34 depends) addresses the weaknesses of the Rekret apparatus by reciting a method of producing a single door panel (instead of an entire door as disclosed by Rekret), that includes producing a first and a second plurality of modular panel members that are distinguishable by a material property. Then, based on the desired properties of the door panel, the appropriate first and second panel members are selected and connected together. The recited method makes it easy to provide a variability of material properties within a given door panel, and it makes it possible to replace only a section of an individual damaged panel, instead of requiring the replacement of the entire panel. The addition of Stansberry’s screen 34 does nothing to cure the deficiencies of Rekret. For at least these reasons, The applicants respectfully submit that the examiner has



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failed to present a *prima facie* case of obviousness of claim 34 based upon the prior art, as required by 35 U.S.C. § 103. Claim 34 is in a condition for allowance.

### CONCLUSIONS

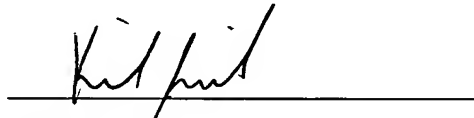
Reconsideration of the application and allowance thereof are respectfully requested.

If there is any matter that the examiner would like to discuss, the examiner is invited to contact the undersigned representative at the telephone number set forth below.

Respectfully submitted,

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